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Attorneys for Defendants
VAXGEN, INC. and LISA BROOKS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ARIA RAZBAN,

Plaintiff,

v.

VAXGEN, INC., a Delaware corporation,
LISA BROOKS, and DOES 1 through 50,
inclusive,

Defendants.

No. C 07-03136 JL

**DEFENDANTS' SEPARATE STATUS
REPORT AND CASE MANAGEMENT
STATEMENT, AND PROPOSED CASE
MANAGEMENT ORDER PURSUANT TO
F.R.C.P.26 (F) AND LOCAL RULE 16-9**

Pursuant to Federal Rule of Civil Procedure 26(f) and Local Rule 16-9, Defendants VaxGen, Inc. and Lisa Brooks submit the following Separate Status Report and Case Management Statement, Proposed Case Management Order and accompanying Declaration of Lisa Barnett Sween reflecting why the parties were unable, despite reasonable efforts, to file a joint F.R.C.P. 26(f) Report and Case Management Conference Statement.

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PRELIMINARY CONFERENCE.

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, a telephone conference was held on August 22, 2007 that was attended by Ira Leshin, Esq. for Plaintiff Aria Razban ("Razban") and Gregory Tenhoff, Esq. for Defendants VaxGen, Inc. and Lisa Brooks ("Defendants"). Below are the agreements of the parties based on their August 22 conference in addition to any proposed items by Defendants:

I. INITIAL DISCLOSURES.

The parties agreed to stipulate to exchange initial disclosures pursuant to Rule 26(a)(1) on or before September 10, 2007.

II. DISCOVERY PLAN AND CASE MANAGEMENT SCHEDULE.

The parties agreed that discovery will take place as set forth in the Federal Rules of Civil Procedure. The parties agreed to the following discovery plan and case management schedule:

- The parties agreed that the first deposition will be the deposition of Plaintiff by Defendants, followed by Plaintiff's deposition of Defendant Lisa Brooks. After these depositions, the parties may notice any other depositions as they deem necessary subject to the Federal Rules of Civil Procedure.

- The parties agreed that they may serve written discovery requests on one another or third parties pursuant to the Federal Rules of Civil Procedure.

Defendants propose the following discovery deadlines:

- Discovery Cutoff Date: February 1, 2008
- Date for Expert Disclosures: March 3, 2008
- Last Day to serve Dispositive Motions: April 25, 2008
- Date for Expert Discovery Cutoff: May 30, 2008
- Last Day for Hearing on Dispositive Motions: May 30, 2008
- Pre-trial Conference: As set by the Court pursuant to Local Rule 16-10

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1 **III. NO PROPOSED DISCOVERY CHANGES**

2 The parties did not propose or agree to any changes in the limitation, scope or schedule of
3 discovery as set forth in the Federal Rules of Civil Procedure.

4 **IV. EVIDENCE PRESERVATION.**

5 Defendants have taken reasonable measures to preserve relevant evidence.

6 **V. CONFIDENTIALITY – PROTECTIVE ORDER.**

7 The parties are negotiating the terms of a stipulated protective order to govern the
8 protection of confidential and/or proprietary information in this case.

9 **VI. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES.**

10 Pursuant to Local Rule 73-1(a)(1), Defendants will file by September 12, 2007 their
11 written Consent To Proceed Before A United States Magistrate Judge.

12 **VII. ADR.**

13 The parties filed a Joint ADR Certification By Parties and Counsel, Stipulation and
14 Proposed Order Selecting an ADR Process, namely Early Neutral Evaluation pursuant to ADR
15 Local Rule 5, on August 24, 2007. The parties agreed to hold the ADR session within 90 days
16 after referral to ENE pursuant to ADR Local Rule 5-4(b).

17 **VIII. SETTLEMENT.**

18 Defendants propose a settlement conference in front of a Magistrate Judge. If the parties
19 can agree to attend, the settlement conference should take place after discovery has been
20 completed.

21 **IX. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS.**

22 Defendants filed their “Certification of Interested Entities of Persons” pursuant to Local
23 Rule 3-16 on June 14, 2007 when they removed the case to this Court. Defendants disclosed at
24 that time that Defendants’ insurer, National Union Fire Insurance Company of Pittsburgh, PA,
25 may provide coverage for certain claims in this action and that National Union Fire Insurance
26 Company of Pittsburgh, PA is wholly owned by American International Group, Inc., a publicly-
27 held corporation listed on the New York Stock Exchange.

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1 **X. TRIAL.**

2 Plaintiff requested a jury trial in the First Amended Complaint. Defendants propose that
3 the trial be scheduled no sooner than July 1, 2008. Defendants estimate that trial in this case will
4 take ten (10) court days.

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6 Dated: September 5, 2007

COOLEY GODWARD KRONISH LLP

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8 By: Elynn Howard for
9 Lisa Barnett Sween

10 Attorneys for Defendants
11 VAXGEN, INC. and LISA BROOKS
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14 **IT IS SO ORDERED:**

15 Dated: _____, 2007

16 _____
17 Honorable James Larson
18 United States Magistrate Judge
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28 1053950 v1/SF

PROOF OF SERVICE
(FRCP 5)

I am a citizen of the United States and a resident of the State of California. I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley Godward Kronish LLP, 101 California Street, 5th Floor, San Francisco, California 94111-5800. My e-mail address is keudaley@cooley.com. On the date set forth below I served the documents described below in the manner described below:

**DEFENDANTS' SEPARATE STATUS REPORT AND CASE MANAGEMENT STATEMENT, AND
 PROPOSED CASE MANAGEMENT ORDER PURSUANT TO F.R.C.P.26 (F) AND LOCAL
 RULE 16-9**

- ☒ (BY U.S. MAIL) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at San Francisco, California.
- ☐ (BY MESSENGER SERVICE) by consigning the document(s) to an authorized courier and/or process server for hand delivery on this date.
- ☐ (BY FACSIMILE) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of document(s) to be transmitted by facsimile and I caused such document(s) on this date to be transmitted by facsimile to the offices of addressee(s) at the numbers listed below.
- ☐ (BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by _____ for overnight delivery.
- ☐ (BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

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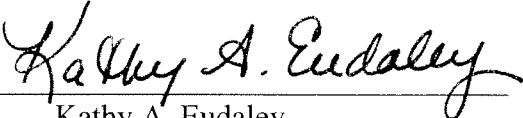
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1 on the following parties in this action:

2 Ira Leshin, Esq.
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6 Tel: (415) 398-3950
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9 Executed on September 5, 2007, at San Francisco, California.

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Kathy A. Eudaley